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ONE OF THE TRIALS OF TRUSTEES. — Of all the perplexities that beset a trustee, one of the most serious is caused by the difficulty of ascertaining, under various circumstances that frequently arise, the rights of life-tenant and remainder-man in property consisting of corporate stock. Two very recent cases in New York, *McLouth v. Hunt* and *Matter of Rogers* (reported in the New York Law Journal, Nov. 29th and Dec. 8th), by no means tend to lessen this difficulty. The former case decides that stock dividends out of earnings accumulated during the time of a life tenant are income, and should go to him as such. The latter case decides, in brief, that on a distribution of the property of a corporation at its dissolution everything that represents earnings accumulated during the time of the life-tenant should go to him. The first case follows the current of recent American authority, which breaks in upon the older and admittedly more convenient rule, followed in England, the United States Supreme Court, and Massachusetts, that cash dividends go to the life-tenant and stock-dividends to the remainder man. The latter case is on a point as to which there is little authority, but like the former it goes as far as possible in favoring the life-tenant. Even laying aside questions of convenience, which may properly, however, be given great weight in the determination of such matters, it may be questioned in point of principle whether these decisions arrive at a result in accordance with the intent of the creator of the trust or with substantial justice. But to compare the Massachusetts rule as to stock dividends with what may now be called the New York rule would require much space. Those questions, moreover, which would arise on the distribution of corporate property at dissolution might require the application of quite different principles. The whole subject of the rights of tenant and remainder-man in stock is peculiarly complicated by the immense possible variety of material circumstances.

In dealing with going companies only, an enormous number of states of fact may arise, each differing materially from any other. To consider some concrete cases will discourage dogmatic statements on the subject. The Boston & Albany Railroad has constantly put a large part of its earnings into permanent improvements, without increasing its nominal capital. Substantially, the action of the corporation is just the same as if this nominal capital were increased; the injustice suffered by the life-tenant, according to the New York view, is precisely as great in the former case as in the latter. Yet the New York courts, which profess to entirely disregard the form of the corporation's action, would certainly not make any attempt to help a life-tenant of this stock. On the other hand, when a Massachusetts corporation divided among its shareholders a sum of money which it had received as compensation for a part of its real estate taken by eminent domain, the Massachusetts court held that this dividend, though in cash, was capital, and went to the remainder-man. And lastly, a question on which there is no authority may be suggested. When the Old Colony Railroad leased its property for a long term to the New York, New Haven & Hartford Railroad for a guaranteed dividend of ten per cent, and a heavy cash bonus, which was immediately distributed, how ought a careful trustee, in Massachusetts or elsewhere, to have divided this bonus?